IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 25344 of 2007(P)

PETITIONER:

SASIDHARAN PILLAI, AGED 57 YEARS,
S/O. PARAMESWARAN PILLAI, MULLASSERIL
PADEETTETHIL, EDAKKUNNAM, NOORANAD VILLAGE.

BY ADV. SRI.R.PADMAKUMAR
SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM.

3. THE SUPERINTENDENT OF POLICE,
OFFICE OF SUPERINTENDENT OF POLICE, ALAPPUZHA.

4. THE DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF DEPUTY SUPERINTENDENT OF POLICE,
CHENGANNUR.

5. THE CIRCLE INSPECTOR OF POLICE,
OFFICE OF CIRCLE INSPECTOR OF POLICE,
MAVELIKKARA.

6. THE SUB INSPECTOR OF POLICE,
NOORANADU POLICE STATION, NOORANADU.

7. THE SUPERINTENDENT,
CB CID OFFICE OF CB CID, THIRUVANANTHAPURAM.

8. RAVEENDRAN NAIR,
GOURI BHAVAN, PUTHUPPALLY KUNNAM, CHARUMMOODU.

9. BEENAKUMARY, AGED 46, W/O. RAVEENDRAN
NAIR, -DO-

BY GOVERNMENT PLEADER SRI.GIKKU JACOB
SRI.P.JACOB VARGHESE
SRI.RASHEED C.NOORANAD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBIT

EXT.P1: TRUE COPY OF ORDER IN IA.555/05 IN O.S.379/04 OF MUNSIFF'S COURT, MAVELIKKARA DATED 23.3.05.

EXT.P2: TRUE COPY OF PHOTOGRAPH OF SHOP ROOM OF PETITIONER BEFORE DEMOLITION.

EXT.P3: TRUE COPY OF PHOTOGRAPH OF DEMOLISHED SHOP ROOM OF PETITIONER.

EXT.P4: TRUE COPY OF FIR IN CRIME NO.302/06 DATED 9.906 OF NOORANAD POLICE STATION.

EXT.P5: TRUE COPY OF PHOTOGRAPH OF ABANDONED ARTICLES OF SHOP ROOM.

EXT.P6: TRUE COPY OF REPRESENTATION DATED 15.09.06.

EXT.P7: TRUE COPY OF ACKNOWLEDGMENT CARD DATED 18.09.06.

/TRUE COPY/

R.BASANT, J

W.P(C).No.25344 of 2007

Dated this the 26th day of October, 2007

JUDGMENT

The petitioner claims to be the occupant of a building belonging to respondents 8 and 9. There are disputes between the parties about the legal right under which he is in occupation. Be that as it may, the parties are at loggerheads and civil litigation is also pending. The petitioner apprehended that respondents 8 and 9 may take law into their hands, pull down his building, and evict him forcibly. Respondents 8 & 9 undertook before the civil court that they shall not do it. The building was found demolished on the date of the offence, ie. on 9.9.06. The petitioner has a case that it came down because of the culpable overt acts of respondents 8 and 9 in collusion with their men. Respondents 8 and 9 have a case that the building was not demolished by anyone, but it came down on its own. The petitioner filed a complaint. A crime was registered. Investigation has been conducted. A negative final report was filed.

2. Aggrieved by the negative final report, the petitioner moved the authorities and now a further investigation u/s 173(8) Cr.P.C is being conducted. Such further investigation is being conducted by the 6th respondent who had conducted the earlier investigation also.

3. The short prayer made by the petitioner in this Writ Petition before me at the time of arguments is that a senior police official may be directed to conduct such further investigation. The petitioner has grievances to raise against the 6th respondent, who is conducting the investigation and the 5th respondent, the official superior of the 6th respondent. In these circumstances, the short prayer of the petitioner is that a competent officer of proven integrity and efficiency may be directed to conduct the further investigation. According to the petitioner, there are several indications to show that the building did not come down on its own and it was a deliberate act of demolition in violation of the law. The petitioner further submits that even the 8th respondent himself had made a categoric statement, which was telecast by some local news channels, that he had deliberately demolished the building.

4. Respondents 8 and 9 had appeared before me through their counsel. They stoutly deny all allegations of commission of crime by them or men acting under them.

5. I do not intend to express any opinion on the acceptability of the assertions and claims. Suffice it to say that after considering all the relevant inputs, I am satisfied that a proper, efficient and honest further investigation must be conducted. I am however of the opinion that in the facts and circumstances of this case, it will only be apposite

to direct a senior police official of the district to conduct such further investigation. I do not intend to cast any aspersion on those who are conducting the investigation now. But I am satisfied that there is merit in the request of the learned counsel for the petitioner that further investigation must be directed to be conducted by a superior official of the police.

6. This Writ Petition is, in these circumstances, allowed. The 3rd respondent, Superintendent of Police, Alappuzha shall entrust the further investigation under Section 173(8) Cr.P.C to any senior police official of the district of proven competence, integrity and efficiency not below the rank of a Dy.S.P who shall conduct and complete the further investigation in this case expeditiously.

7. Orders to this effect shall be passed by the 3rd respondent within a period of 3 weeks from this date. There shall also be a further direction that the officer who is at present conducting the further investigation shall not submit the further final report in the matter.

8. Hand over a copy of this order to the learned Government Pleader for immediate communication to the 3rd respondent and for appropriate orders. Compliance shall be reported to this Court also.

(R.BASANT, JUDGE)

rtr/-